

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 183

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO CRIMINAL PROCEDURE; AMENDING CHAPTER 26, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2604A, IDAHO CODE, TO PROVIDE FOR THE EXPUNGEMENT OF THE CRIMINAL RECORDS OF INNOCENT PERSONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 26, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-2604A, Idaho Code, and to read as follows:

19-2604A. EXPUNGEMENT OF CRIMINAL RECORDS – INNOCENT PERSONS. (1) Any person who has not been found guilty or pled guilty to a crime, including related, plea-bargained or lesser offenses, may, after the dismissal, verdict or other final termination of proceedings, petition the court for the expungement of his or her arrest, incarceration, criminal case and all related records.

(2) Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may oppose the petition and testify at the hearing.

(3) If the court finds that the expungement of the petitioner's record will not compromise public safety, it shall order all records in the petitioner's case in the custody of the court and all other related records, including law enforcement investigatory reports and fingerprint records, in the custody of any other agency or official, sealed. It shall further order all references to the arrest, incarceration and criminal case removed from all indices, including the national crime information center, and from all other records available to the public. Copies of the expungement order shall be sent to each agency or official named in the order. Upon the entry of the order, the proceedings in the petitioner's case shall be deemed never to have occurred and the petitioner may lawfully reply accordingly upon any inquiry into the matter.

Notwithstanding any other provision of this section, a special index of the expungement proceedings and records shall be kept by the court ordering expungement, and such index and records shall not be available to the public. Inspection of the index and records may thereafter be permitted only by the court upon petition by the person who is the subject of the records or by order of any other court of competent jurisdiction.